

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

Raymond Paul Freitas, M.D.)

Case No. 800-2014-007418

**Physician's and Surgeon's)
Certificate No. G 55595)**

Respondent)

DECISION

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on March 30, 2018.

IT IS SO ORDERED March 1, 2018.

MEDICAL BOARD OF CALIFORNIA

By: _____

**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 JOSHUA M. TEMPLET
Deputy Attorney General
4 State Bar No. 267098
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5529
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Attorneys for Complainant

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8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 800-2014-007418

11 **RAYMOND PAUL FREITAS, M.D.**

OAH No. 2017080660

12 **4816 Westminster Pl.**
13 **Santa Rosa, CA 95405**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR
PUBLIC REPRIMAND

14 **Physician's and Surgeon's Certificate**
15 **No. G 55595**

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, via Joshua M.
24 Templet, Deputy Attorney General.

25 2. Respondent Raymond Paul Freitas, M.D. (Respondent) is represented in this
26 proceeding by attorney John L. Fleer, whose address is: 1850 Mt. Diablo Blvd, Ste. 120
27 Walnut Creek, CA 94596.

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3. On or about August 5, 1985, the Board issued Physician's and Surgeon's Certificate No. G 55595 to Raymond Paul Freitas, M.D. (Respondent). The certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-007418 (Accusation) and will expire on July 31, 2017, unless renewed.

JURISDICTION

4. The Accusation was filed before the Board and is pending against the Respondent. The Accusation and all other statutorily required documents were properly served on the Respondent on July 14, 2017. The Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of the Accusation is attached as **Exhibit A** and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. The Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the Accusation. The Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reprimand.

7. The Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. The Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. The Respondent understands and agrees that the charges and allegations in the Accusation, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, the Respondent agrees that, at a hearing, the Complainant could establish a factual basis for the charges in the Accusation, and that the Respondent hereby gives up his right to contest those charges.

11. The Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Board. The Respondent understands and agrees that counsel for the Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by the Respondent or his counsel. By signing the stipulation, the Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Reprimand shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reprimand, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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1 DISCIPLINARY ORDER

2 **Public Reprimand**

3 IT IS HEREBY ORDERED that the Respondent, Raymond Paul Freitas, M.D., holder of
4 Physician's and Surgeon's Certificate No. G 55595, shall be and hereby is **publicly reprimanded**
5 pursuant to Business and Professions Code section 2227. This Public Reprimand is issued as a
6 result of the following conduct by the Respondent as set forth in Accusation No. 800-2014-
7 007418:

8 The Respondent failed to follow-up on his patient's abnormal lab test results and
9 imaging results. The Respondent also failed to correctly interpret his patient's lab test
10 results as indicating malignant conditions and did not formulate appropriate
11 differential diagnoses.

11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
13 Reprimand and have fully discussed it with my attorney, John L. Fleer. I understand the
14 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this
15 Stipulated Settlement and Disciplinary Order for Public Reprimand voluntarily, knowingly, and
16 intelligently, and agree to be bound by the Decision and Order of the Board.

17
18 DATED: 1/25/2018

Raymond Paul Freitas M.D.
RAYMOND PAUL FREITAS, M.D.
Respondent

20 I have read and fully discussed with the Respondent, Raymond Paul Freitas, M.D., the
21 terms and conditions and other matters contained in the above Stipulated Settlement and
22 Disciplinary Order for Public Reprimand. I approve its form and content.

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24 DATED: 1-25-2018

John L. Fleer
JOHN L. FLEER
Attorney for Respondent

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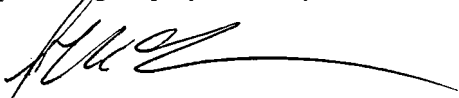
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby respectfully submitted for consideration by the Board.

Dated: 1/25/2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General


JOSHUA M. TEMPLET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-007418

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 JOSHUA M. TEMPLET
Deputy Attorney General
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10 In the Matter of the Accusation Against:

Case No. 800-2014-007418

11 **Raymond Paul Freitas, M.D.**
12 **4816 Westminster Pl.**
13 **Santa Rosa, CA 95405**

ACCUSATION

14 **Physician's and Surgeon's Certificate**
15 **No. G55595,**

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer
21 Affairs (Board).

22 2. On August 5, 1985, the Medical Board issued Physician's and Surgeon's Certificate
23 Number G55595 to Raymond Paul Freitas, M.D. (Respondent). The Physician's and Surgeon's
24 Certificate was in full force and effect at all times relevant to the charges brought herein and will
25 expire on July 31, 2017, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board, under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

“(b) Gross negligence.

“(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

“(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

“(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

“ . . . ”

FACTS

6. At all times relevant to this matter, Respondent was licensed and practicing medicine in California.

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1 7. Patient A.C.¹ was Respondent's patient from approximately 2003 or 2004 until
2 approximately 2014. She had complaints of low back pain dating to December 2008. A lumbar
3 spine x-ray done in March 2009 showed degenerative disc disease at L5-S1. She was taking
4 etodolac² and Norco³ 5/500 for her pain.

5 8. On April 30, 2009, Respondent began prescribing 5 mg of Methadone⁴ for A.C. twice
6 a day for her low back and pelvic pain.

7 9. A.C. had an MRI of her lumbar spine on May 12, 2009 which showed an acute
8 compression fracture of the L4 vertebral body which was not evident on the March x-ray.

9 10. On May 14, 2009, Respondent ordered blood tests and a bone density test to follow
10 up on the compression fracture. The blood test showed A.C.'s sedimentation rate (sed rate) to be
11 high, 118 mm/Hr, with a normal range of 0 to 30 mm/Hr. Respondent noted on May 21, 2009
12 that he would have the sed rate retested in two weeks and, if it was still high, he would seek a
13 rheumatology consult. In a May 29, 2009 message, A.C. asked Respondent if her lumbar fracture
14 was related to her elevated sed rate. Respondent replied that he did not think the fracture was
15 related to the sed rate but did not mention or explore other possible causes. A repeat sed rate on
16 June 4, 2009 was 120 mm/Hr, a bit higher than the earlier level yet there is no evidence that
17 rheumatology was consulted.

18 11. The report for A.C.'s bone density test, dated May 29, 2009, showed normal bone
19 density in the hips and lumbar spine but reflected that the lumbar spine density had decreased by
20 6.7% compared to a study done on August 29, 2007, a statistically significant change.
21
22

23 ¹ The patient is designated in this document as Patient A.C. to protect her privacy.
Respondent knows the name of the patient and can confirm her identity through discovery.

24 ² Etodolac is a nonsteroidal anti-inflammatory drug (NSAID) used to treat mild to
25 moderate pain, osteoarthritis, or rheumatoid arthritis. It is a dangerous drug as defined in section
4022 of the Code.

26 ³ Norco, a trade name for hydrocodone bitartrate with acetaminophen, is an opioid
27 analgesic. The strength of the tablet is 5/500 which reflects 5 mg of hydrocodone and 500 mg of
28 acetaminophen. It is a Schedule II controlled substance and narcotic and is a dangerous drug as
defined in section 4022 of the Code.

⁴ Methadone is an opioid medication. It is a schedule II controlled substance and narcotic
and a dangerous drug as defined in section 4022 of the Code. Methadone is used as a pain
reliever and as part of drug addiction detoxification and maintenance programs.

1 Respondent left a message for A.C. stating, "[t]hough there has been a decline in the density from
2 the prior study your densities are in the normal range."

3 12. The June 4, 2009 blood tests ordered by Respondent included a serum protein
4 electrophoresis (SPEP) test which measures specific proteins in the blood to help identify some
5 diseases such as cancer. The SPEP results were abnormal with a gamma spike and an M-band of
6 37.8% and a concentration of 3.8 g/dl. Respondent reviewed the results on June 8, 2009 and
7 commented that there was an elevated sed rate and gamma globulin spike on the SPEP consistent
8 with chronic inflammation. He did not mention the elevated M-band results which can indicate
9 multiple myeloma and did not formulate differential diagnoses. He did not repeat the SPEP test
10 despite its abnormal findings.

11 13. On June 8, 2009, Respondent increased A.C.'s methadone prescription from twice a
12 day to three to four times a day.

13 14. After the June 4, 2009 blood tests, A.C. was seen by physicians from spine surgery
14 and infectious disease and treated for gram positive bacteremia and discitis and was placed on
15 antibiotics.

16 15. A CT scan done on August 14, 2009 following the course of antibiotics showed a
17 large lytic⁵ defect involving the inferior aspect of the L3 vertebra.

18 16. On September 15, 2010, A.C. had surgery for anteroposterior L2-5 fusion. On
19 November 1, 2010, A.C. had the second part of the surgery, a vertebroplasty, where cement was
20 injected in the vertebra above her fusion. This involved T12, L1, and L2.

21 17. On December 28, 2010, A.C. presented to Respondent with allergy complaints and
22 nose bleeds. She was referred to Eye Ear Nose and Throat (EENT) for an evaluation.

23 18. At the time of A.C.'s nine-month post surgery follow-up on September 2, 2011, she
24 was no longer taking pain medications, had no activity restrictions, and was released to follow up
25 with her primary care physician.

26
27
28 ⁵ Soft spots that appear as "holes" on a standard bone x-ray are referred to as lytic or
osteolytic lesions.

1 19. Approximately a year later, on October 9, 2012, A.C. saw Respondent for back pain,
2 fatigue, and nausea, sometimes associated with vertigo. He ordered x-rays and blood tests which
3 were, for the most part, normal.

4 20. On January 26, 2013, A.C. returned to Respondent with left chest and left thorax
5 pain, pleuritic and nonexertional in character, and generalized fatigue. Cardiac and chest exams
6 were normal.

7 21. On March 17, 2013, A.C. was seen by another physician for cough, fever, and a sore
8 throat. A chest x-ray was ordered which showed right upper lobe pneumonia and persistent
9 cardiomegaly. Respondent saw A.C. the following day. His notes reflect that he discussed the x-
10 ray with A.C. and advised her it was consistent with pneumonia and that he switched her
11 antibiotic to Zithromax. He did not mention or follow up on the cardiomegaly finding.

12 22. Respondent next saw A.C. on May 13, 2013 for left shoulder pain. There was no
13 mention of a follow-up chest x-ray for the pneumonia and no mention of the cardiomegaly.

14 23. A.C. was seen by another physician on May 31, 2013 complaining of not feeling well.
15 She had had a cold for four weeks, was now experiencing heavy brown phlegm, and was feeling
16 weak. She was prescribed another course of Zithromax plus a prednisone burst.

17 24. On September 2, 2013, A.C. saw Respondent. She complained of leg cramps,
18 bronchitis, a urinary tract infection, poor sleep, and recurring episodes of nocturnal sweats,
19 among other things. Respondent's primary diagnosis was hypertension. He changed A.C.'s
20 blood pressure medication and ordered her lipids rechecked on a trial of red rice yeast
21 supplement. He did not document an assessment or plan for her recurring night sweats, later
22 attributing them, without basis, to the CPAP that she used for sleep apnea and the early
23 September heat.

— 24 25. On September 9, 2013, A.C. was seen in the emergency department with complaints
25 of chest pain and fever. Her exam was noteworthy for left-sided chest wall tenderness on
26 palpation, lungs clear, no heart murmurs, and a negative abdominal exam. The assessment was
27 possible fecal impaction.
28

1 26. Respondent saw A.C. the next day, September 10, 2013, for a follow-up exam. He
2 noted that she had had fevers of up to 101 degrees the preceding week, her blood cultures were
3 positive for gram positive cocci in chains, and a CT angiography from the emergency department
4 was suspicious for a 9.8 mm lytic lesion involving the body of the L4 vertebra. Her emergency
5 department lab test results included a urinalysis showing 600 mg/dl of protein with a normal
6 range of 0 to 9. Respondent assessed A.C. with gram positive bacteremia and sent her back to the
7 emergency department. He did not suggest any explanation or follow-up for the proteinuria.

8 27. A.C.'s blood culture grew strep viridans and she had an infectious disease
9 consultation. She was again placed on IV antibiotics.

10 28. By October 5, 2013, A.C.'s kidney function had declined and she was in stage 3 renal
11 failure. She was also having increasing shortness of breath. She was readmitted to the hospital
12 on October 6, 2013 with severe aortic insufficiency and she underwent aortic valve replacement
13 on October 11, 2013.

14 29. A.C. had a coagulopathy after the heart valve surgery and a hematology consult was
15 obtained. A second SPEP was reported on November 6, 2013 which again showed a gamma
16 spike with M-band spike now at 59%. A bone marrow biopsy was done on November 5, 2013
17 which showed that A.C. had multiple myeloma.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Gross Negligence and/or Repeated Acts of Negligence)**

20 30. Respondent Raymond Paul Freitas, M.D. is guilty of unprofessional conduct and
21 subject to disciplinary action under section 2234, subdivision (b) (gross negligence) and/or (c)
22 (repeated negligent acts), of the Code in that Respondent engaged in the conduct described above
23 including, but not limited to, the following:

24 A. Respondent failed to follow through with a rheumatology referral as planned when
25 A.C.'s repeat sediment rate on June 4, 2009 was higher than it had been when tested on May 14, 2009.

26 B. Respondent exhibited a lack of concern over A.C.'s May 29, 2009 abnormal bone
27 density scan.

1 C. Respondent failed to offer or pursue an explanation for A.C.'s lumbar compression
2 fracture other than to note on May 29, 2009 that he did not think that her elevated sed rate was
3 related to the fracture.

4 D. Respondent failed to order a repeat SPEP after the abnormal one on June 4, 2009.

5 E. Respondent failed to follow up on A.C.'s March 17, 2013 chest x-ray results showing
6 pneumonia and persistent cardiomegaly.

7 F. Respondent failed to investigate the cause of the recurrent night sweats A.C.
8 described at her September 2, 2013 visit.

9 G. When Respondent saw A.C. on September 10, 2013, he failed to order a follow-up
10 urinalysis for proteinuria or an explanation for not ordering one.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Gross Negligence and/or Repeated Acts of Negligence)**

13 31. Respondent Raymond Paul Freitas, M.D. is guilty of unprofessional conduct and
14 subject to disciplinary action under section 2234, subdivision (b) (gross negligence) and/or (c)
15 (repeated negligent acts), of the Code in that Respondent engaged in the conduct described above
16 including, but not limited to, interpreting A.C.'s June 4, 2009 SPEP test result only as being
17 consistent with chronic inflammation, ignoring the M-band spike which does not indicate
18 inflammation but, rather, malignant or potentially malignant conditions, and failing to formulate
19 differential diagnoses such as multiple myeloma, especially given A.C.'s abnormal bone density
20 scan and increasing use of methadone to control her pain.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Medical Board of California issue a decision:

24 1. Revoking or suspending Physician's and Surgeon's Certificate Number G55595,
25 issued to Raymond Paul Freitas, M.D.;

26 2. Revoking, suspending or denying approval of Raymond Paul Freitas, M.D.'s
27 authority to supervise physician assistants and advanced practice nurses;
28

1 3. Ordering Raymond Paul Freitas, M.D., if placed on probation, to pay the Board the
2 costs of probation monitoring; and

3 4. Taking such other and further action as deemed necessary and proper.
4

5 DATED: July 14, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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